

MONDAY, JANUARY 28, 1985

SECOND LEGISLATIVE DAY

In accordance with Senate Joint Resolution No. 5, the House met at 5:00 p.m. and was called to order by Mr. Speaker McWherter.

The proceedings were opened with prayer by Reverend Mark L. Knisley, Bethany Presbyterian Church, Kingsport, Tennessee.

Representative Yelton led the House in the Pledge of Allegiance to the Flag.

The roll call was taken with the following results:

Present 91

Representatives present were: Bell, Bewley, Bivens, Brewer, Buck, Burnett, Byrd, Chiles, Clark (Davidson), Clark (Sumner), Cobb, Collier, Covington, Crain, Cross, Curlee, Darnell, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DeBerry, DePriest, Dills, Dixon, Drew, Duer, Ellis, Frensley, Gafford, Garrett, Gill, Harrill, Hassell, Henry, Hillis, Hobbs, Hurley, Huskey, Ivy, Jared, Jones, Kent, King, Kisber, Lawson, Love, May, McAfee, McCroskey, McNally, Miller, Montgomery, Moore (Shelby), Moore (Sullivan), Murphy, Murray, Naifeh, Nance, Napier, Peroulas, Pruitt, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Stafford, Stallings, Starnes, Swann, Tankersley, Tanner, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, Webb, West, Wheeler, Whitson, Winningham, Wix, Wolfe, Wood, Work, Yelton and Mr. Speaker McWherter--91.

The Speaker announced that Representative Percy was excused because of illness.

The Speaker announced that Representative Bragg was excused because of illness.

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The Speaker announced that Representative Moody was excused because of bad weather.

MESSAGE FROM THE SENATE

MR. SPEAKER: I am directed to transmit to the House, Senate Joint Resolutions Nos. 1, 3, 4, 5, 6 and 10; all for the signature of the Speaker.

CLYDE W. McCULLOUGH, JR.,
Chief Clerk.

SIGNED

The Speaker announced that he had signed the following: Senate Joint Resolutions Nos. 1, 3, 4, 5, 6 and 10.

RESOLUTIONS LYING OVER

Senate Joint Resolution No. 9--Relative to memory, Walter A. Barrett.

Under the rules, Senate Joint Resolution No. 9 was referred to the Committee on Calendar and Rules.

House Joint Resolution No. 3--Relative to congratulating Cathy Brown.

Under the rules, House Joint Resolution No. 3 was referred to the Committee on Calendar and Rules.

House Joint Resolution No. 4--Relative to congratulating Steve Richardson.

Under the rules, House Joint Resolution No. 4 was referred to the Committee on Calendar and Rules.

House Joint Resolution No. 5--Relative to congratulating Sharon Loveday.

Under the rules, House Joint Resolution No. 5 was referred to the Committee on Calendar and Rules.

House Joint Resolution No. 6--Relative to amending Constitution, State income tax.

The Speaker referred House Joint Resolution No. 6 to the Committee on Finance, Ways and Means.

SECOND ROLL CALL

A roll call was taken with the following results:

Present 92

Representatives present were: Bell, Bewley, Bivens, Brewer, Buck, Burnett, Byrd, Chiles, Clark (Davidson), Clark (Sumner), Cobb, Collier, Copeland, Covington, Crain, Cross, Curlee, Darnell, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DePriest, Dills, Dixon, Drew, Duer, Ellis, Frensley, Gafford, Garrett, Gill, Harrill, Hassell, Henry, Hillis, Hobbs, Hurley, Huskey, Ivy, Jared, Jones, Kent, Kernell, King, Kisber, Lawson, Love, May, McAfee, McCroskey, McNally, Miller, Montgomery, Moore (Shelby), Moore (Sullivan), Murphy, Murray, Naifeh, Nance, Napier, Peroulas, Pruitt, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Stafford, Stallings, Starnes, Swann, Tankersley, Tanner, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, Webb, West, Wheeler, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Work and Yelton--92.

INTRODUCTION OF RESOLUTIONS

House Joint Resolution No. 8--Relative to honoring Milt Servais upon retirement--By Chiles.

Under the rules, House Joint Resolution No. 8 was referred to the Committee on Calendar and Rules.

House Joint Resolution No. 9--Relative to honoring Guy B. Darst --By Ellis.

On motion of Mr. Ellis, House Joint Resolution No. 9 was withdrawn from the House.

House Joint Resolution No. 10--Relative to commending Polly Brown Buckner--By Bragg.

Under the rules, House Joint Resolution No. 10 was referred to the Committee on Calendar and Rules.

House Joint Resolution No. 11--Relative to congratulating Coach "Boots" Donnelly and MTSU football team--By Bragg.

Under the rules, House Joint Resolution No. 11 was referred to the Committee on Calendar and Rules.

House Joint Resolution No. 12--Relative to congratulating Susan Gendrich--By Bragg.

Under the rules, House Joint Resolution No. 12 was referred to the Committee on Calendar and Rules.

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House Joint Resolution No. 13--Relative to memory, Felix Lamar Peebles--By Bragg.

Under the rules, House Joint Resolution No. 13 was referred to the Committee on Calendar and Rules.

House Joint Resolution No. 14--Relative to commending Tommy Martin--By Bragg.

Under the rules, House Joint Resolution No. 14 was referred to the Committee on Calendar and Rules.

House Joint Resolution No. 15--Relative to congratulating Charlotte Youree--By Bragg.

Under the rules, House Joint Resolution No. 15 was referred to the Committee on Calendar and Rules.

House Joint Resolution No. 16--Relative to congratulating MTSU Athletic Director Jimmy Earle--By Bragg.

Under the rules, House Joint Resolution No. 16 was referred to the Committee on Calendar and Rules.

INTRODUCTION OF BILLS

House Bill No. 25--To regulate finances of State Credit Union Share Insurance Corporation--By Murphy, Robinson (Hamilton), Starnes, Webb, Chiles, Ellis, Wood, King, Tanner and Hassell.

Passed first consideration.

House Bill No. 26--To regulate credit unions--By Murphy, Robinson (Hamilton), Starnes, Webb, Ellis, Wood, King, Tanner, Hassell and Chiles.

Passed first consideration.

House Bill No. 27--To change number of directors, Volunteer Corp. Credit Union--By Murphy, Robinson (Hamilton), Starnes, Webb, Chiles, Hassell, Wood, King, Ellis and Tanner.

Passed first consideration.

House Bill No. 28--To enact Tax Reduction Act of 1985--By Naifeh, Tanner, DePriest, Hillis and Mr. Speaker McWherter.

Passed first consideration.

House Bill No. 29--To regulate licensing, pharmacists--By Rhinehart.

Passed first consideration.

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House Bill No. 30--To require motorists to submit, blood alcohol test--By McNally, Wood and Darnell.

Passed first consideration.

House Bill No. 31--To allow certain persons into Retirement System--By McNally.

Passed first consideration.

House Bill No. 32--To alter percentage contribution to Tennessee Foundation Program--By Copeland.

Passed first consideration.

House Bill No. 33--To require interest on tax refunds--By Copeland.

Passed first consideration.

House Bill No. 34--To impose civil penalties on nursing homes --By Gaia and King.

Passed first consideration.

House Bill No. 35--To regulate ownership of acreage--By Collier.

Passed first consideration.

House Bill No. 36--To grant Board control of Hospital District Benton County--By Collier.

Passed first consideration.

House Bill No. 37--To regulate distribution of alcoholic beverages--By Rhinehart.

Passed first consideration.

House Bill No. 38--To allow granting divorces to both parties--By Murphy.

Passed first consideration.

House Bill No. 39--To enact bicycle safety measures--By Murphy.

Passed first consideration.

House Bill No. 40--To allow divorce to both parties, if equal guilt--By Murphy.

Passed first consideration.

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House Bill No. 41--To eliminate liability for users of probationer labor--By Murphy.

Passed first consideration.

House Bill No. 42--To modify Tennessee Criminal Sentencing Reform Act of 1982--By Murphy.

Passed first consideration.

House Bill No. 43--To regulate banking fees for certain ages--By Murphy.

Passed first consideration.

House Bill No. 44--To make certain provisions, taxation of gasohol--By Robinson (Davidson).

Passed first consideration.

House Bill No. 45--To regulate purchase and sale of red fox furs--By Burnett.

Passed first consideration.

House Bill No. 46--To revise and reenact Titles 47 and 48, Code --By Naifeh, Murphy and Mr. Speaker McWherter.

Passed first consideration.

House Bill No. 47--To revise and codify general and public statutes--By Naifeh, Murphy and Mr. Speaker McWherter.

Passed first consideration.

House Bill No. 48--To revise and reenact Titles 34 through 37, Code--By Naifeh, Murphy and Mr. Speaker McWherter.

Passed first consideration.

House Bill No. 49--To revise and reenact Titles 30 through 33, Code--By Murphy, Naifeh and Mr. Speaker McWherter.

Passed first consideration.

House Bill No. 50--To retain appropriated funds for Memphis State University--By Gill.

Passed first consideration.

House Bill No. 51--To increase state employee longevity pay rate--By Murphy.

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Passed first consideration.

House Bill No. 52--To provide for confiscation, vehicles in DUI charges--By Wood and McNally.

Passed first consideration.

House Bill No. 53--To provide for six-member jury, civil cases --By Murphy.

Passed first consideration.

House Bill No. 54--To create commission system, worker's compensation claims--By Wheeler.

Passed first consideration.

House Bill No. 55--To increase pay, county officers and clerks --By Murphy.

Passed first consideration.

BILLS REFERRED TO COMMITTEES

The following bills which were held pending appointment of committees were referred to committees as follows:

House Bill No. 1--Commerce

House Bill No. 2--General Welfare

House Bill No. 3--Finance, Ways and Means

House Bill No. 4--State and Local Government

House Bill No. 5--Judiciary

House Bill No. 6--State and Local Government

House Bill No. 7--Finance, Ways and Means

House Bill No. 8--Transportation

House Bill No. 9--Conservation and Environment

House Bill No. 10--Judiciary

House Bill No. 11--Government Operations

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HOUSE BILLS ON SECOND CONSIDERATION

House Bill No. 12--To make certain provision, Hickman County legislative body.

Passed second consideration and held without reference.

House Bill No. 13--To make certain provisions, teacher certification.

Passed second consideration and referred to Committee on Education.

House Bill No. 14--To provide for character education in schools.

Passed second consideration and referred to Committee on Education.

House Bill No. 15--To provide for name change, Bledsoe County correctional facility.

Passed second consideration and referred to Committee on State and Local Government.

House Bill No. 16--To provide for certification, tobacco seed.

Passed second consideration and referred to Committee on Agriculture.

House Bill No. 17--To make certain provision, grant anticipation notes.

Passed second consideration and referred to Committee on State and Local Government.

House Bill No. 18--To exempt certain printing materials from sales tax.

Passed second consideration and referred to Committee on Finance, Ways and Means.

House Bill No. 19--To amend Section 3-1-103, Code.

Passed second consideration and referred to Committee on State and Local Government.

House Bill No. 20--To amend Section 3-1-103, Code.

Passed second consideration and referred to Committee on State and Local Government.

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House Bill No. 21--To make certain provisions security bonds, non-resident contractors.

Passed second consideration and referred to Committee on Commerce.

House Bill No. 22--To provide preference resident contractors, certain public contracts.

Passed second consideration and referred to Committee on Commerce.

House Bill No. 24--To make certain provision, registration tax, freight motor vehicles.

Passed second consideration and referred to Committee on Transportation.

BILLS WITHDRAWN

On motion of Mr. Wheeler, House Bill No. 23 was withdrawn from the House.

On motion of Mr. Collier, House Bill No. 35 was withdrawn from the House.

The clerk announced the following committee schedule:

SCHEDULE FOR HOUSE COMMITTEE MEETINGS -- 1985

Time	Committee	Place
Tuesday		
8:00 - 9:30 a.m.	CALENDAR & RULES	Room #16, LP
9:30 - 11:00 a.m.	Judiciary	Room #31, LP
9:30 - 11:00 a.m.	Commerce	Room #16, LP
11:00 - 12:30 p.m.	Government Operations	Room #31, LP
12:30 - 1:30 p.m.	Labor & Consumer Affairs	Room #30, LP
12:30 - 2:00 p.m.	General Welfare	Room #29, LP
2:00 - 3:30 p.m.	Finance, Ways & Means	Room #16, LP
3:00 - 4:00 p.m.	Agriculture	Room #31, LP
3:30 - 5:00 p.m.	Transportation	Room #29, LP

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Wednesday

8:00 - 10:00 a.m.	CALENDAR & RULES	Room #16, LP
10:30 - 12:00 noon	Education	Room #31, LP
10:30 - 12:00 noon	State & Local Government	Room #16, LP
12:00 - 1:00 p.m.	Conservation & Environment	Room #16, LP

Thursday

8:00 - 10:00 a.m.	CALENDAR & RULES	Room #16, LP
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COMMITTEE APPOINTMENT

The Speaker announced that Representative Davis (Gibson) had been removed from the Committee on Education and appointed to the Committee on Finance, Ways and Means.

**REPORT OF SELECT COMMITTEE
ON THE COOPER/HURLEY ELECTION**

**BEFORE THE HOUSE OF REPRESENTATIVES OF THE
STATE OF TENNESSEE**

MACK COOPER

Petitioner

V.

BRUCE HURLEY,

Respondent

**REPORT OF THE SPECIAL COMMITTEE
ON THE COOPER/HURLEY ELECTION
CONTEST OF THE HOUSE OF
REPRESENTATIVES OF THE NINETY-
FOURTH GENERAL ASSEMBLY**

January 16, 1985

On the 16th day of November, 1984, Mr. Mack Cooper filed with the Clerk of the House of Representatives a petition to contest the 1984 regular November election in the 9th state representative district. On December 7, 1984, a response to the election contest petition was filed by the Hawkins and Hancock County Election Commissions and Mr. Bruce Hurley.

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On December 20, 1984, an ad hoc committee appointed by Mr. Speaker McWherter conducted an organizational meeting to elect officers and discuss the election contest hearing. All of the following members were present at such meeting:

Representative Jerry A. Jared, Chairman

Representative Paul C. (Buddy) Scruggs, Vice-Chairman

Representative Jimmy Naifeh

Representative James M. Henry

Representative Thomas C. Wheeler

Representative Ray Clark

On December 20, 1984, Mr. Lawrence "Cotton" Robertson filed with the Clerk of the House of Representatives an intervening petition to contest the 1984 regular November election in the 36th state representative district.

On January 8, 1985, Chairman Jared set the hearing on the election contest in the 9th state representative district for January 16, 1985. All parties were notified of the hearing date. Also on January 8, 1985, Mr. Bruce Hurley filed with the Clerk of the House of Representatives a motion to dismiss the election contest.

At 10:05 on January 16, 1985, the committee convened for a pre-hearing conference with the parties involved in the 9th representative district election contest. All committee members were present. Also present were Mr. D. Bruce Shine and Mr. Thomas H. Torbett representing Mr. Cooper, Mr. William M. Leech, Jr., Mr. D. Scott Hurley and Mr. David Buuck representing Mr. Hurley, Mr. Thomas E. Tigue and Mr. Nathan H. Ridley of the office of Legal Services and Mr. Bryant Millsaps, Chief Clerk of the House of Representatives.

At the pre-hearing conference, it was agreed that the allegations concerning voter fraud would be dropped, the procedure for the hearing was established and Mr. Hurley's motion to dismiss was denied. The committee then adjourned until 1:00 p.m..

At 1:06 p.m. on January 16, 1985, Chairman Jared called the hearing to order. Mr. D. Bruce Shine presented arguments on behalf of Mr. Cooper and Mr. William M. Leech Jr. presented a response on behalf of Mr. Hurley. Also testifying were Mr. David Collins, State Election Coordinator, David Durham, Assistant Election Coordinator, Frank Short, Dora Bowlin, Randall W. Green, Jr., Howard W. Rhea and Ricky Stewart. After hearing closing arguments on behalf of both parties, the committee adjourned until January 17, 1985 at 8:30 a.m.

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At 8:33 a.m. Chairman Jared called the committee to order and Representative Scruggs made the following motion:

"I move that we (this committee) report to the Speaker and the House that our recommendation is that the election contest in the 9th Legislative District should be decided in favor of the respondents, and that the duly elected representative of the district would be declared to be Bruce Hurley."

Representative Scruggs' motion was seconded by Representative Clark and the Committee unanimously adopted the motion. Representative Scruggs then made the following:

"In view of my previous motion, I would like to further move that the intervening petition in the 36th representative district be dismissed."

Representative Naifeh seconded Representative Scruggs' motion and the committee unanimously adopted the motion.

The committee directed Mr. Tighe and Mr. Ridley to prepare the report to be submitted to the House of Representatives and the committee adjourned.

Attached to this report are the originals of the following documents:

1. Mack Cooper's petition to void the 1984 regular November election in the 9th state representative district;
2. Bruce Hurley's response to Mr. Cooper's petition;
3. Lawrence "Cotton" Robertson's intervening petition to void the 1984 regular November election in the 36th state representative district;
4. Mr. Hurley's motion to dismiss the election contest petition in the 9th representative district;
5. Exhibits from the January 16, 1985, election contest hearing; and
6. The transcript of the January 16, and 17, 1985, election contest hearing.

Respectfully submitted:

Jerry A. Jared, Chairman

Paul C. (Buddy) Scruggs, Vice-Chairman

Jimmy Naifeh

James M. Henry

Thomas C. Wheeler

Ray Clark

Mr. Henry moved that the report of the Select Committee be adopted and made the action of the House, which motion prevailed by the following vote:

Ayes	93
Noes	0

Representatives voting aye were: Bell, Bewley, Bivens, Brewer, Buck, Burnett, Byrd, Chiles, Clark (Davidson), Clark (Sumner), Cobb, Collier, Copeland, Covington, Crain, Cross, Curlee, Darnell, Davidson, Davis (Cocke), Davis (Gibson), Davis (Knox), DePriest, Dills, Dixon, Drew, Duer, Ellis, Frensley, Gafford, Garrett, Gill, Harrill, Hassell, Henry, Hillis, Hobbs, Hurley, Huskey, Ivy, Jared, Jones, Kent, Kernell, King, Kisber, Lawson, Love, May, McAfee, McCroskey, McNally, Miller, Montgomery, Moore (Shelby), Moore (Sullivan), Murphy, Murray, Naifeh, Nance, Napier, Peroulas, Pruitt, Rhinehart, Ridgeway, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Severance, Shirley, Stafford, Stallings, Starnes, Swann, Tankersley, Tanner, Turner (Hamilton), Turner, C. (Shelby), Turner, L. (Shelby), Ussery, Webb, West, Wheeler, Whitson, Williams, Winningham, Wix, Wolfe, Wood, Work, Yelton and Mr. Speaker McWherter--93.

A motion to reconsider was tabled.

MESSAGE FROM THE SENATE

MR. SPEAKER: I am directed to transmit to the House, Senate Joint Resolution No:

19--Relative to joint convention, address, Governor; adopted for concurrence.

CLYDE W. McCULLOUGH, JR.,
Chief Clerk.

On motion of Mr. Naifeh, the House adjourned until 2:00 p.m. Wednesday, January, 30, 1985.